



General Assembly

February Session, 2006

***Raised Bill No. 380***

LCO No. 2058

\*02058\_\_\_\_\_ED\_\*

Referred to Committee on Education

Introduced by:  
(ED)

***AN ACT CONCERNING SPECIAL EDUCATION.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (1) of subsection (a) of section 10-76d of the  
2 2006 supplement to the general statutes is repealed and the following  
3 is substituted in lieu thereof (*Effective July 1, 2006*):

4 (a) (1) In accordance with the regulations and procedures  
5 established by the Commissioner of Education and approved by the  
6 State Board of Education, each local or regional board of education  
7 shall provide the professional services requisite to identification of  
8 children requiring special education, identify each such child within its  
9 jurisdiction, determine the eligibility of such children for special  
10 education pursuant to sections 10-76a to 10-76h, inclusive, as amended  
11 by this act, prescribe [suitable] appropriate educational programs for  
12 eligible children, maintain a record thereof and make such reports as  
13 the commissioner may require. No child may be required to obtain a  
14 prescription for a substance covered by the Controlled Substances Act,  
15 21 USC 801 et seq., as amended from time to time, as a condition of  
16 attending school, receiving an evaluation under section 10-76ff, as  
17 amended by this act, or receiving services pursuant to sections 10-76a

18 to 10-76h, inclusive, as amended by this act, or the Individuals with  
19 Disabilities Education Act, 20 USC 1400 et seq., as amended from time  
20 to time.

21       Sec. 2. Subsection (d) of section 10-76d of the 2006 supplement to the  
22 general statutes is repealed and the following is substituted in lieu  
23 thereof (*Effective July 1, 2006*):

24       (d) To meet its obligations under sections 10-76a to 10-76g, inclusive,  
25 as amended, any local or regional board of education may make  
26 agreements with another such board or subject to the consent of the  
27 parent or guardian of any child affected thereby, make agreements  
28 with any private school or with any public or private agency or  
29 institution, including a group home to provide the necessary programs  
30 or services, but no expenditures made pursuant to a contract with a  
31 private school, agency or institution for such special education shall be  
32 paid under the provisions of section 10-76g, as amended, unless (1)  
33 such contract includes a description of the educational program and  
34 other treatment the child is to receive, a statement of minimal goals  
35 and objectives which it is anticipated such child will achieve and an  
36 estimated time schedule for returning the child to the community or  
37 transferring such child to another appropriate facility, (2) subject to the  
38 provisions of this subsection, the educational needs of the child for  
39 whom such special education is being provided cannot be met by  
40 public school arrangements in the opinion of the commissioner who,  
41 before granting approval of such contract for purposes of payment,  
42 shall consider such factors as the particular needs of the child, the  
43 suitability and efficacy of the program offered by such private school,  
44 agency or institution, and the economic feasibility of comparable  
45 alternatives, and (3) commencing with the 1987-1988 school year and  
46 for each school year thereafter, each such private school, agency or  
47 institution has been approved for special education by the  
48 Commissioner of Education or by the appropriate agency for facilities  
49 located out of state, except as provided in subsection (b) of this section.  
50 Notwithstanding the provisions of subdivision (2) of this subsection or

51 any regulations adopted by the State Board of Education setting  
52 placement priorities, placements pursuant to this section and  
53 payments under section 10-76g, as amended, may be made pursuant to  
54 such a contract if the public arrangements are more costly than the  
55 private school, institution or agency, provided the private school,  
56 institution or agency meets the educational needs of the child and its  
57 program is [suitable] appropriate and efficacious. Notwithstanding the  
58 provisions of this subsection to the contrary, nothing in this subsection  
59 shall (A) require the removal of a child from a nonapproved facility if  
60 the child was placed there prior to July 7, 1987, pursuant to the  
61 determination of a planning and placement team that such a placement  
62 was appropriate and such placement was approved by the  
63 Commissioner of Education, or (B) prohibit the placement of a child at  
64 a nonapproved facility if a planning and placement team determines  
65 prior to July 7, 1987, that the child be placed in a nonapproved facility  
66 for the 1987-1988 school year. Each child placed in a nonapproved  
67 facility as described in subparagraphs (A) and (B) of subdivision (3) of  
68 this subsection may continue at the facility provided the planning and  
69 placement team or hearing officer appointed pursuant to section 10-  
70 76h, as amended by this act, determines that the placement is  
71 appropriate. Expenditures incurred by any local or regional board of  
72 education to maintain children in nonapproved facilities as described  
73 in said subparagraphs (A) and (B) shall be paid pursuant to the  
74 provisions of section 10-76g, as amended. Any local or regional board  
75 of education may enter into a contract with the owners or operators of  
76 any sheltered workshop or rehabilitation center for provision of an  
77 education occupational training program for children requiring special  
78 education who are at least sixteen years of age, provided such  
79 workshop or institution shall have been approved by the appropriate  
80 state agency. Whenever any child is identified by a local or regional  
81 board of education as a child requiring special education and said  
82 board of education determines that the requirements for special  
83 education could be met by a program provided within the district or  
84 by agreement with another board of education except for the child's

85 need for services other than educational services such as medical,  
86 psychiatric or institutional care or services, said board may meet its  
87 obligation to furnish special education for such child by paying the  
88 reasonable cost of special education instruction in a private school,  
89 hospital or other institution provided said board or the commissioner  
90 concurs that placement in such institution is necessary and proper and  
91 no state institution is available to meet such child's needs.

92 Sec. 3. Subsection (f) of section 10-76d of the 2006 supplement to the  
93 general statutes is repealed and the following is substituted in lieu  
94 thereof (*Effective July 1, 2006*):

95 (f) No children placed out primarily for special education services  
96 shall be placed in a private school, agency or institution outside of the  
97 state, except when in the opinion of the Commissioner of Education it  
98 is determined that: (1) No public or approved private facility which  
99 can reasonably provide [suitable] appropriate special education  
100 programs for such children is available in the state; (2) no public or  
101 approved private facility which can reasonably provide [suitable]  
102 appropriate special education programs for such children is available  
103 in the state and the out-of-state placement is required for a period of  
104 time not to exceed two years, during which time the local or regional  
105 board of education responsible for providing such children with a  
106 special education shall develop [a suitable] an appropriate special  
107 education program or cause such program to be developed within the  
108 state; or (3) an out-of-state placement is more economically feasible  
109 than an existing special education program in the state or any such  
110 program that could be developed within the state within a reasonable  
111 period of time. No placement in an out-of-state private special  
112 education school, agency or facility shall be approved unless such  
113 school, agency or facility first agrees in writing to submit to the state  
114 Department of Education any such financial program and student  
115 progress reports as the commissioner may require for the purpose of  
116 making an annual determination as to the economic feasibility and  
117 program adequacy of the special education program provided. The

118 provisions of this subsection shall not apply to children placed out  
119 primarily for services other than educational services as described in  
120 subsection (d) of this section.

121 Sec. 4. Section 10-76h of the general statutes is repealed and the  
122 following is substituted in lieu thereof (*Effective July 1, 2006*):

123 (a) (1) A parent or guardian of a child requiring special education  
124 and related services pursuant to sections 10-76a to 10-76g, inclusive, as  
125 amended, a pupil if such pupil is an emancipated minor or eighteen  
126 years of age or older requiring such services, a surrogate parent  
127 appointed pursuant to section 10-94g, as amended by this act, or the  
128 Commissioner of Children and Families, or a designee of said  
129 commissioner, on behalf of any such child in the custody of said  
130 commissioner, may request [, in writing,] a hearing of the local or  
131 regional board of education or the unified school district responsible  
132 for providing such services whenever such board or district proposes  
133 or refuses to initiate or change the identification, evaluation or  
134 educational placement of or the provision of a free appropriate public  
135 education to such child or pupil. [The local or regional board of  
136 education or the unified school district shall, not later than seven  
137 calendar days after receipt of a request for a hearing, notify the  
138 Department of Education of such request] Such request shall be made  
139 by sending a written request to such board or district with a copy to  
140 the Department of Education.

141 (2) The local or regional board of education or the unified school  
142 district responsible for providing special education and related  
143 services for a child or pupil requiring such services under sections 10-  
144 76a to 10-76g, inclusive, as amended, may request, upon written notice  
145 to the parent or guardian of such child, the pupil if such pupil is an  
146 emancipated minor or is eighteen years of age or older, the surrogate  
147 parent appointed pursuant to section 10-94g, as amended by this act,  
148 or the Commissioner of Children and Families, or a designee of said  
149 commissioner, on behalf of any such child or pupil in the custody of

150 said commissioner, a hearing concerning the decision of the planning  
151 and placement team established pursuant to section 10-76d, as  
152 amended by this act, whenever such board or district proposes or  
153 refuses to initiate or change the identification, evaluation or  
154 educational placement of or the provision of a free appropriate public  
155 education placement to such child or pupil, including, but not limited  
156 to, refusal of the parent or guardian, pupil if such pupil is an  
157 emancipated minor or is eighteen years of age or older or the surrogate  
158 parent appointed pursuant to section 10-94g, as amended by this act,  
159 to give consent for initial evaluation or reevaluation or the withdrawal  
160 of such consent. The local or regional board of education or unified  
161 school district shall provide a copy of the request to the Department of  
162 Education. In the event a planning and placement team proposes  
163 private placement for a child or pupil who requires or may require  
164 special education and related services and the parent, guardian, pupil  
165 if such pupil is an emancipated minor or is eighteen years of age or  
166 older or surrogate parent appointed pursuant to section 10-94g, as  
167 amended by this act, withholds or revokes consent for such placement,  
168 the local or regional board of education shall request a hearing in  
169 accordance with this section and may request mediation pursuant to  
170 subsection (f) of this section, provided such action may be taken only  
171 in the event such parent, guardian, pupil or surrogate parent has  
172 consented to the initial receipt of special education and related services  
173 and subsequent to the initial placement of the child, the local or  
174 regional board of education seeks a private placement. For purposes of  
175 this section, a "local or regional board of education or unified school  
176 district" includes any public agency which is responsible for the  
177 provision of special education and related services to children  
178 requiring special education and related services.

179       [(2)] (3) The request for a hearing shall contain a statement of the  
180 specific issues in dispute.

181       [(3)] (4) A party shall have two years to request a hearing from the  
182 time the board of education proposed or refused to initiate or change

183 the identification, evaluation or educational placement or the provision  
184 of a free appropriate public education placement to such child or pupil  
185 provided, if [such] the parent, guardian, pupil or surrogate parent is  
186 not given notice of the procedural safeguards, in accordance with  
187 regulations adopted by the State Board of Education, including notice  
188 of the limitations contained in this section, such two-year limitation  
189 shall be calculated from the time notice of the safeguards is properly  
190 given.

191 (b) Upon receipt of a written request for a special education hearing  
192 made in accordance with subsection (a) of this section, the Department  
193 of Education shall appoint an impartial hearing officer who shall  
194 schedule a hearing which shall be held and the decision written and  
195 mailed within forty-five days of the [receipt of the request for the  
196 hearing] commencement of the hearing pursuant to the Individuals  
197 with Disabilities Education Act, 20 USC 1400 et seq., as amended from  
198 time to time. An extension of the forty-five-day time limit may be  
199 granted by the hearing officer at the request of either party to the  
200 hearing.

201 (c) (1) [The Department of Education shall, upon receipt of a request  
202 for a special education hearing made in accordance with subsection (a)  
203 of this section, appoint an impartial hearing officer or hearing board.]  
204 The Department of Education shall provide training to hearing officers  
205 in administrative hearing procedures, including due process, and in  
206 the special educational needs of children. Hearing officers and  
207 members of hearing boards shall not be employees of the Department  
208 of Education or any local or regional board of education, unified  
209 school district or public agency involved in the education or care of the  
210 child. A person who is paid to serve as a hearing officer is not deemed  
211 to be an employee of the Department of Education. No person who  
212 participated in the previous identification, evaluation or educational  
213 placement of or the provision of a free appropriate public education to  
214 the child or pupil nor any member of the board of education of the  
215 school district under review, shall be a hearing officer or a member of a

216 hearing board.

217 (2) Both parties shall participate in a prehearing conference to  
218 resolve the issues in dispute, if possible and narrow the scope of the  
219 issues. Each party to the hearing shall disclose, not later than five  
220 business days prior to the date the hearing commences, (A)  
221 documentary evidence such party plans to present at the hearing and a  
222 list of witnesses such party plans to call at the hearing, and (B) all  
223 completed evaluations and recommendations based on the offering  
224 party's evaluations that the party intends to use at the hearing. Except  
225 for good cause shown, the hearing officer shall limit each party to such  
226 documentary evidence and witnesses as were properly disclosed and  
227 are relevant to the issues in dispute. A hearing officer may bar any  
228 party who fails to comply with the requirements concerning disclosure  
229 of evaluations and recommendations from introducing any  
230 undisclosed evaluation or recommendation at the hearing without the  
231 consent of the other party.

232 (3) The hearing officer or board shall hear testimony relevant to the  
233 issues in dispute offered by the party requesting the hearing and any  
234 other party directly involved, and may hear any additional testimony  
235 the hearing officer or board deems relevant. The hearing officer or  
236 board may require a complete and independent evaluation or  
237 prescription of educational programs by qualified persons, the cost of  
238 which shall be paid by the board of education or the unified school  
239 district. The hearing officer or board shall cause all formal sessions of  
240 the hearing and review to be recorded in order to provide a verbatim  
241 record.

242 (d) (1) The hearing officer or board shall have the authority (A) to  
243 confirm, modify, or reject the identification, evaluation or educational  
244 placement of or the provision of a free appropriate public education to  
245 the child or pupil, (B) to determine the appropriateness of an  
246 educational placement where the parent or guardian of a child  
247 requiring special education or the pupil if such pupil is an

248 emancipated minor or eighteen years of age or older, has placed the  
249 child or pupil in a program other than that prescribed by the planning  
250 and placement team, or (C) to prescribe alternate special educational  
251 programs for the child or pupil. If the parent or guardian of such a  
252 child or the pupil, who previously received special education and  
253 related services from the district, enrolls the child or the pupil enrolls  
254 in a private elementary or secondary school without the consent of or  
255 referral by the district, a hearing officer may, in accordance with the  
256 Individuals with Disabilities Education Act, 20 USC 1400 et seq., as  
257 amended from time to time, require the district to reimburse the  
258 parents or the pupil for the cost of that enrollment if the hearing officer  
259 finds that the district had not made a free appropriate public education  
260 available to the child or pupil in a timely manner prior to that  
261 enrollment. In the case where a parent or guardian, or pupil if such  
262 pupil is an emancipated minor or is eighteen years of age or older, or a  
263 surrogate parent appointed pursuant to section 10-94g, as amended by  
264 this act, has refused consent for initial evaluation or reevaluation, the  
265 hearing officer or board may order an initial evaluation or reevaluation  
266 without the consent of such parent, guardian, pupil or surrogate  
267 parent except that if the parent, guardian, pupil or surrogate parent  
268 appeals such decision pursuant to subdivision (4) of this subsection,  
269 the child or pupil may not be evaluated or placed pending the  
270 disposition of the appeal. The hearing officer or board shall inform the  
271 parent or guardian, or the emancipated minor or pupil eighteen years  
272 of age or older, or the surrogate parent appointed pursuant to section  
273 10-94g, as amended by this act, or the Commissioner of Children and  
274 Families, as the case may be, and the board of education of the school  
275 district or the unified school district of the decision in writing and mail  
276 such decision within forty-five days [after receipt by the board of the  
277 request for a hearing made in accordance with the provisions of  
278 subsection (a) of this section] of the commencement of the hearing  
279 pursuant to the Individuals with Disabilities Education Act, 20 USC  
280 1400 et seq., as amended from time to time, except that a hearing  
281 officer or board may grant specific extensions of such forty-five-day

282 period in order to comply with the provisions of subsection (b) of this  
283 section. The hearing officer may include in [his] the decision a  
284 comment on the conduct of the proceedings. The findings of fact,  
285 conclusions of law and decision shall be written without personally  
286 identifiable information concerning such child or pupil, so that such  
287 decisions may be available for public inspections pursuant to sections  
288 4-167 and 4-180a.

289 (2) If the local or regional board of education or the unified school  
290 district responsible for providing special education for such child or  
291 pupil requiring special education does not take action on the findings  
292 or prescription of the hearing officer or board within fifteen days after  
293 receipt thereof, the State Board of Education shall take appropriate  
294 action to enforce the findings or prescriptions of the hearing officer or  
295 board. Such action may include application to the Superior Court for  
296 injunctive relief to compel such local or regional board or school  
297 district to implement the findings or prescription of the hearing officer  
298 or board without the necessity of establishing irreparable harm or  
299 inadequate remedy at law.

300 (3) If the hearing officer or board upholds the local or regional board  
301 of education or the unified school district responsible for providing  
302 special education and related services for such child or pupil who  
303 requires or may require special education on the issue of evaluation,  
304 reevaluation or placement in a private school or facility, such board or  
305 district may evaluate or provide such services to the child or pupil  
306 without the consent of the parent or guardian, pupil if such pupil is an  
307 emancipated minor or is eighteen years of age or older, or the  
308 surrogate parent appointed pursuant to section 10-94g, as amended by  
309 this act, subject to an appeal pursuant to subdivision (4) of this  
310 subsection.

311 (4) Appeals from the decision of the hearing officer or board shall be  
312 taken in the manner set forth in section 4-183, except the court shall  
313 hear additional evidence at the request of a party. Notwithstanding the

314 provisions of section 4-183, such appeal shall be taken to the judicial  
315 district wherein the child or pupil resides. In the event of an appeal,  
316 upon request and at the expense of the State Board of Education, said  
317 board shall supply a copy of the transcript of the formal sessions of the  
318 hearing officer or board to the parent or guardian or the emancipated  
319 minor or pupil eighteen years of age or older or surrogate parent or  
320 said commissioner and to the board of education of the school district  
321 or the unified school district.

322 (e) Hearing officers and members of the hearing board shall be paid  
323 reasonable fees and expenses as established by the State Board of  
324 Education.

325 (f) (1) In lieu of proceeding directly to a hearing, pursuant to  
326 subsection (a) of this section, the parties may agree in writing to  
327 request the Commissioner of Education to appoint a state mediator.  
328 Upon the receipt of a written request for mediation, signed by both  
329 parties, the commissioner shall appoint a mediator knowledgeable in  
330 the fields and areas significant to the review of the special educational  
331 needs of the child or pupil. The mediator shall attempt to resolve the  
332 issues in a manner which is acceptable to the parties. [within thirty  
333 days from the request for mediation.] The mediator shall certify in  
334 writing to the Department of Education and to the parties [, within the  
335 thirty-day period,] whether the mediation was successful or  
336 unsuccessful.

337 (2) If the dispute is not resolved through mediation, either party  
338 may proceed to a hearing.

339 Sec. 5. Subsection (a) of section 10-76q of the general statutes is  
340 repealed and the following is substituted in lieu thereof (*Effective July*  
341 *1, 2006*):

342 (a) The State Board of Education, in accordance with regulations  
343 adopted by said board, shall: (1) Provide the professional services  
344 necessary to identify, in accordance with section 10-76a, children

345 requiring special education who are enrolled at state regional  
 346 vocational-technical schools, in accordance with section 10-95; (2)  
 347 identify each such child; (3) determine the appropriateness of the state  
 348 regional vocational-technical school for the educational needs of each  
 349 such child; (4) provide [a suitable] an appropriate educational program  
 350 for each such child; [where appropriate;] (5) maintain a record thereof;  
 351 and (6) annually evaluate the progress and accomplishments of special  
 352 education programs at the state regional vocational-technical schools.

353 Sec. 6. Section 10-76ff of the general statutes is repealed and the  
 354 following is substituted in lieu thereof (*Effective July 1, 2006*):

355 (a) Each local and regional board of education shall follow the  
 356 procedures outlined in this section in determining if a child requires  
 357 special education and related services, as defined in section 10-76a. (1)  
 358 In conducting an evaluation of the child, the local or regional board of  
 359 education shall: (A) Use a variety of assessment tools and strategies to  
 360 gather relevant functional, [and] developmental and academic  
 361 information, including information provided by the child's parent or  
 362 guardian, that may assist in determining (i) whether the child is a  
 363 child, (I) who requires special education and related services pursuant  
 364 to subparagraphs (A) and (C) of subdivision (5) of section 10-76a, (II)  
 365 whose disability has an adverse effect on his educational performance,  
 366 and (III) who, by reason of such adverse effect requires special  
 367 education and related services, and (ii) the content of the child's  
 368 individualized education program, including information related to  
 369 enabling the child to be involved in and progress in the general  
 370 curriculum or, for preschool children, to participate in appropriate  
 371 activities; (B) not use any single [procedure] measure or assessment as  
 372 the sole criterion for determining whether a child is a child with a  
 373 disability or determining an appropriate educational program for the  
 374 child; and (C) use technically sound instruments that may assess the  
 375 relative contribution of cognitive and behavioral factors, in addition to  
 376 physical or developmental factors. (2) Each local and regional board of  
 377 education shall ensure that: (A) [Tests] Assessments and other

378 evaluation materials used to assess the child are (i) selected and  
 379 administered so as not to be discriminatory on a racial or cultural  
 380 basis, and (ii) provided and administered in the [child's native]  
 381 language [or other mode of communication, unless it is clearly not  
 382 feasible to do so] and form most likely to yield accurate information on  
 383 what the child knows and can do academically, developmentally and  
 384 functionally, unless it is not feasible to so provide or administer; (B)  
 385 [any standardized tests that are given to the child] assessments and  
 386 other evaluation materials used to assess a child (i) [were validated for  
 387 the specific purpose for which they] are used for purposes for which  
 388 the assessments or measures are valid and reliable, (ii) are  
 389 administered by trained and knowledgeable personnel, and (iii) are  
 390 administered in accordance with any instructions provided by the  
 391 producer of such tests; (C) the child is assessed in all areas of suspected  
 392 disability; [and] (D) assessment tools and strategies that provide  
 393 relevant information that directly assists persons in determining the  
 394 educational needs of the child are provided; and (E) assessments of  
 395 children with disabilities who transfer from one school district to  
 396 another school district in the same academic year are coordinated with  
 397 such children's prior and subsequent schools, as necessary and as  
 398 expeditiously as possible, to ensure prompt completion of full  
 399 evaluations. (3) In accordance with section 10-76d, as amended by this  
 400 act, and applicable federal law and regulations, upon completion of  
 401 administration of [tests] assessments and other evaluation [materials]  
 402 measures, the determination of whether the child is a child requiring  
 403 special education and related services shall be made by a team  
 404 consisting of qualified professionals and the parent or guardian of the  
 405 child and a copy of the evaluation report and the documentation for  
 406 such determination shall be given to the parent or guardian of the  
 407 child. (4) The local or regional board of education shall not determine  
 408 that a child requires special education and related services [based  
 409 solely on] if the dominant factor for determining eligibility is (A) a lack  
 410 of instruction in reading, including the essential components of  
 411 reading instruction, as defined in subdivision (3) of Section 1208 of the

412 Elementary and Secondary Education Act of 1965, or math or limited  
413 English proficiency, or (B) evidence that the child's behavior violates  
414 the school's disciplinary policies or evidence that is derived from the  
415 contents of discipline records.

416 (b) (1) The planning and placement team, as part of an initial  
417 evaluation, if appropriate, and as part of any reevaluations, shall  
418 review existing evaluation data on the child, including evaluations and  
419 information provided by the parent or guardian or the child,  
420 classroom-based assessments and observations and teacher and related  
421 services provider observations. On the basis of such review, and input  
422 from the child's parent or guardian, the planning and placement team  
423 shall identify what additional data, if any, is needed to determine: (A)  
424 Whether the child has a particular category of disability, or in the case  
425 of a reevaluation, whether the child continues to have such a disability;  
426 (B) the present levels of performance and educational needs of the  
427 child; (C) whether the child needs special education and related  
428 services, or in the case of a reevaluation, whether the child continues to  
429 need special education and related services or whether the child is able  
430 to be served within the regular education program with existing  
431 supplemental services, available in the school district; and (D) whether  
432 any additions or modifications to the special education and related  
433 services are needed to enable the child to meet the measurable annual  
434 goals set out in the individualized education program of the child and  
435 to participate, as appropriate, in the general curriculum. (2) The local  
436 or regional board of education shall administer such tests and other  
437 evaluation materials as may be needed to produce the data identified  
438 by the planning and placement team pursuant to subdivision (1) of this  
439 subsection. (3) If the planning and placement team decides that no  
440 additional data is needed to determine that the child continues to be a  
441 child requiring special education and related services, the local or  
442 regional board of education shall notify the parent or guardian of the  
443 child of (A) the decision and the reasons for it, and (B) the right of the  
444 parent or guardian to request an assessment to determine whether the  
445 child continues to be a child requiring special education and related

446 services. The local or regional board of education shall not be required  
 447 to conduct such an assessment unless requested to do so by the parent  
 448 or guardian of the child. (4) A local or regional board of education  
 449 shall evaluate a child identified as requiring special education and  
 450 related services, in accordance with this section, prior to determining  
 451 that such child no longer requires such special education or related  
 452 services, except that such evaluation shall not be required before the  
 453 termination of a child's eligibility for special education due to  
 454 graduation from high school with a regular education diploma, or due  
 455 to exceeding the age eligibility for a free appropriate public education  
 456 pursuant to state regulations. For a child whose eligibility for special  
 457 education terminates due to graduation from high school with a  
 458 regular high school diploma or such child exceeds the age of eligibility  
 459 for a free appropriate public education, the local or regional board of  
 460 education shall provide the child with a summary of the child's  
 461 academic achievement and functional performance, which shall  
 462 include recommendations on how to assist the child in meeting the  
 463 child's postsecondary goals.

464 (c) The use of the word disability pursuant to this section shall not  
 465 be the basis for limiting the services or programs, including regular  
 466 education, available to such child.

467 Sec. 7. Subsection (a) of section 10-76i of the general statutes is  
 468 repealed and the following is substituted in lieu thereof (*Effective July*  
 469 *1, 2006*):

470 (a) There shall be an Advisory Council for Special Education which  
 471 shall advise the General Assembly, State Board of Education and the  
 472 Commissioner of Education, and which shall engage in such other  
 473 activities as described in this section. Said advisory council shall  
 474 consist of the following members: (1) Two appointed by the  
 475 Commissioner of Education, one of whom shall be an official of the  
 476 Department of Education and one of whom shall be a representative of  
 477 an institution of higher education in the state that prepares teacher and

478 related services personnel; (2) two appointed by the Commissioner of  
479 Mental Retardation, one of whom shall be an official of the department  
480 and one of whom shall be a person with disabilities or a parent of such  
481 a person; (3) two appointed by the Commissioner of Children and  
482 Families, one of whom shall be an official of the department and one of  
483 whom shall be a person with disabilities or a parent or foster parent of  
484 such a person; (4) one appointed by the Commissioner of Correction;  
485 (5) four who are members of the General Assembly, one appointed by  
486 the majority leader of the House of Representatives, one appointed by  
487 the minority leader of the House of Representatives, one appointed by  
488 the president pro tempore of the Senate and one appointed by the  
489 minority leader of the Senate; (6) three appointed by the president pro  
490 tempore of the Senate, one of whom shall be a member of the  
491 Connecticut Association of Boards of Education, one of whom shall be  
492 a member of the Connecticut Speech-Language-Hearing Association  
493 and one of whom shall be a person with disabilities or the parent of  
494 such a person; (7) two appointed by the majority leader of the Senate  
495 one of whom shall be a person with disabilities or the parent of such a  
496 person and one of whom shall be a regular education teacher; (8) four  
497 appointed by the minority leader of the Senate, one of whom shall be a  
498 representative of a vocational, community or business organization  
499 concerned with the provision of transitional services to children with  
500 disabilities, one of whom shall be a member of the Connecticut  
501 Association of Private Special Education Facilities and two of whom  
502 shall be persons with disabilities or the parents of such persons; (9)  
503 three appointed by the speaker of the House of Representatives, one of  
504 whom shall be a member of the Connecticut Association of School  
505 Administrators and a local education official, one of whom shall be a  
506 person with disabilities or the parent of such a person and one of  
507 whom shall be a member of the literacy coalition and a person with  
508 disabilities or the parent of such a person; (10) two appointed by the  
509 majority leader of the House of Representatives, one of whom shall be  
510 a person working in the field of special-education-related services and  
511 one of whom shall be a person with disabilities or the parent of such a

512 person; (11) four appointed by the minority leader of the House of  
 513 Representatives, two of whom shall be persons with disabilities or the  
 514 parents of such persons, one of whom shall be a member of the  
 515 Connecticut Association of Pupil Personnel Administrators and an  
 516 administrator of a program for children who require special education,  
 517 and one of whom shall be a special education teacher; [and] (12) eight  
 518 appointed by the Governor, all of whom shall be persons with  
 519 disabilities or parents of such persons and one of whom shall also be  
 520 associated with a charter school; and (13) such other members as  
 521 required by the Individuals with Disabilities Education Act, 20 USC  
 522 1400 et seq., as amended from time to time, appointed by the  
 523 Commissioner of Education. The terms of the present members shall  
 524 expire on June 30, 1998. Appointments shall be made to the council by  
 525 July 1, 1998. Members shall serve two-year terms, except that members  
 526 appointed pursuant to subdivisions (1) to (4), inclusive, and (12) of this  
 527 subsection whose terms commenced July 1, 1998, shall serve three-year  
 528 terms and the successors to such members appointed pursuant to said  
 529 subdivisions shall serve two-year terms.

530 Sec. 8. Subsection (a) of section 10-94g of the general statutes is  
 531 repealed and the following is substituted in lieu thereof (*Effective July*  
 532 *1, 2006*):

533 (a) (1) When in the opinion of the Commissioner of Education or a  
 534 designee of said commissioner, (A) a child may require special  
 535 education, or a child who required special education no longer  
 536 requires such education but requires or may require services under  
 537 Section 504 of the Rehabilitation Act of 1973, as amended from time to  
 538 time, and (B) the parent or guardian of such child cannot be identified,  
 539 the whereabouts of the parent cannot be discovered after reasonable  
 540 efforts to locate the parent have been made, [or] such child is a ward of  
 541 the state or such child is an unaccompanied and homeless youth, both  
 542 as defined in 42 USC 11434a, as amended from time to time, the  
 543 commissioner or a designee of said commissioner shall appoint a  
 544 surrogate parent who shall represent such child in the educational

545 decision-making process. (2) A surrogate parent may also be  
546 appointed for a child who is under the supervision of the Department  
547 of Children and Families and receiving education services from  
548 Unified School District #2, provided the parent or guardian: (A) Is  
549 notified by certified mail that the child is or may be eligible to receive  
550 special education and related services; (B) agrees or fails to object to  
551 the appointment of a surrogate parent; (C) receives identical notices as  
552 the surrogate parent; and (D) may revoke the appointment of a  
553 surrogate parent at any time.

This act shall take effect as follows and shall amend the following sections:

Section 1	<i>July 1, 2006</i>	10-76d(a)(1)
Sec. 2	<i>July 1, 2006</i>	10-76d(d)
Sec. 3	<i>July 1, 2006</i>	10-76d(f)
Sec. 4	<i>July 1, 2006</i>	10-76h
Sec. 5	<i>July 1, 2006</i>	10-76q(a)
Sec. 6	<i>July 1, 2006</i>	10-76ff
Sec. 7	<i>July 1, 2006</i>	10-76i(a)
Sec. 8	<i>July 1, 2006</i>	10-94g(a)

***Statement of Purpose:***

To make the state statutes concerning the provision of special education, special education due process hearings and evaluations, the State Special Education Advisory Council, and surrogates in schools comply with the federal Individuals with Disabilities Education Act.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*